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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,958	09/08/2003	Peter B. Wardenburg	HYD 003 P2	8824
7590	06/09/2005		EXAMINER MAY, ROBERT J	
Patrick P. Phillips Kremblas, Foster, Phillips & Pollick 7632 Slate Ridge Boulevard Reynoldsburg, OH 43068			ART UNIT 2875	PAPER NUMBER

DATE MAILED: 06/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

OK

Office Action Summary	Application No.		Applicant(s)	
	10/656,958		WARDENBURG, PETER B.	
	Examiner		Art Unit	
	Robert May		2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11, 15 and 16 is/are rejected.
- 7) ☐ Claim(s) 10 and 12-14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

Claim 14 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

Claim 1 recites a mounting member with at least one groove with a plurality of apertures disposed therein for fastening a flange of a mounting plate having at least one aperture formed within for attachment to the mounting member. This would inherently allow the arbitrary positioning of flange member and reflector depending on type of lighting configuration i.e., reflector or bulb.

Claim 14 recites a flange fastener which is fastened to the mounting member and the flange at a predetermined aperture in said groove depending on the choice of lighting reflector and light bulb.

The office considers these two claims to be equivalent in structure and scope therefore, Claim 14 does not further limit Claim 1.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-9, 11, and 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Splane.

In regard to Claims 1-4, 7, 9, 11 Splane discloses in Fig. 1 an adjusting member (18) with two ends with one end adjacent to a lamp socket (16) two grooves located approximately opposite to each other (19) and extending between the two ends of the adjusting member (18), two flange members (22) which are slideably engaged within each groove (16) extending perpendicularly from the groove, where the flange thickness is shown to approximately equal to the groove depth and the groove width is naturally larger than the flange width, and engaged with an adjusting ring (23) which has a central aperture for accommodating the adjusting member (18) and an aperture for fastening the adjusting ring to the adjusting member and fastens the reflector in place, and a casing (12) which is inherently an endplate which is detachably connected to the adjusting member (18) on one side via a screw (20). Splane fails to teach a plurality of apertures formed within the grooves and at least one aperture formed within the flange members (21,22), but it would generally be obvious to one of ordinary skill in the art to

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have a plurality of apertures within the groove (19) to secure flange rod (21) within the groove of the adjusting member (18) at predetermined intervals using a fastener introduced through flange member to the groove aperture. Therefore, it would be obvious to one of ordinary skill to have the flange rod components of Splane with a plurality of holes engaging with a plurality of holes disposed within the grooves of the adjusting member (18).

With regard to Claims 15-16, Splane discloses a strcture which be obvious to one of ordinary skill in the art to perform the method claimed for the same reasons set forth above for Claims 1-4, 7, 9, and 11.

With regard to Claims 5-6, and 8 it would be generally obvious to one of ordinary skill to make the pair of flange rod elements (46) relatively opposite to each other in Fig. 3 integral with the adjusting ring (47), which would reduce the number of parts required for assembly. Furthermore, It would have been obvious to make them integral because it has been held to be within the general skill of a worker in the art to make plural parts unitary as a matter of engineering design choice. *In re Larson*, 144 USPQ 347 (CCPA 1965); *In re Lockart* 90 USPQ 214 (CCPA 1951). Therefore, it would be obvious to integrate the flange members (46) with the adjusting ring (47) and forming a plurality of apertures on the flange and groove for setting the position of the mounting member relative to the reflector at predetermined intervals.

Allowable Subject Matter

Claims 10, and 12-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The reasons for allowance are as follows:

With regard to Claim 10, the prior art does not teach a mounting plate with an aperture in the shape of a slot which extends to the center of mounting plate from periphery of mounting plate.

With regard to Claims 12 and 13, the prior art does not teach an adjustable reflector socket with specifically four apertures formed within the groove and two apertures formed with the flange member.

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Splane (US Pat's 6,464,377 and 6,273,590) disclose a lighting system with an adjustable reflector. Christian (US Pat. 1,054,746) disclose a lamp socket where the lamp element is adjustable. Douglas (U.S. Pat. 5,722,770) discloses a light fixture with a position oriented lamp and detachable end plate.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert May whose telephone number is (571) 272-5919. The examiner can normally be reached between 9 am– 5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax number for the organization where this application or proceeding is assigned is (703) 872-9306 for all communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval PAIR system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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